

COURT NOTICE

Eastern and Southern Districts of New York

The Courts have adopted revisions to Local Civil Rule 7.1. Prior to its taking effect the public is invited to comment.

Proposed New Local Civil Rule 7.1(b): Length of Briefs on Appeals from Bankruptcy Court

Unless otherwise ordered by the district judge to whom the appeal is assigned, appellate briefs on bankruptcy appeals shall not exceed 25 pages and reply briefs shall not exceed 10 pages.

Background and Reason for Recommendation

Bankruptcy Rule 8010 provides:

Unless the district court or the bankruptcy appellate court panel by local rule or order otherwise provides, principal briefs shall not exceed 50 pages, and reply briefs shall not exceed 25 pages, exclusive of pages containing tables of contents, tables of citations and any addendum containing statutes, rules, regulations, or similar material.

Based on the wording of Bankruptcy Rule 8010, a local rule seems necessary to conform the briefing of bankruptcy appeals to the page limits contained in the individual practices of many district judges. As proposed, the rule in no way prevents a judge from allowing briefs of any size in appeals assigned to that judge.

Proposed New Local Civil Rule 7.1(c):

In cases involving a pro se litigant, counsel shall, when serving a memorandum of law (or other submissions to the Court), provide the pro se litigant (but not other counsel or the Court) with printed copies of decisions cited therein that are unreported or reported exclusively on computerized databases.

Background and Reason for Recommendation

The proposed rule was suggested by the New York City Bar's Committee on Corrections, which stated that "[t]he right to equal access to the courts outweighs the negligible task of printing out and attaching unreported cases." Inmates generally do not have access to electronic databases, and even non-incarcerated pro se parties are unlikely to have access to for-pay electronic databases such as Westlaw or Lexis.

Members of the Joint SDNY-EDNY Local Rules Committee from the SDNY U.S. Attorney's Office, the Attorney General's Office, and N.Y.C. Corporation Counsel canvassed their colleagues and reported that their offices are in favor of the proposal. The City Bar Committee on Corrections contacted the five District Attorneys' offices in New York City, and also Westchester and Putnam Counties, and all of them (except Richmond) said they had no problem with the proposal.

An alternative proposal – that counsel provide copies only if requested by the pro se – was discussed, but it was decided that it created logistical problems (e.g., re: deadlines), and that it was better practice to require copies be provided to the pro se litigant automatically without need for a request.

The proposed rule makes clear that copies are not to be sent to the Court (unless requested by the Court), so the proposed rule will not create any filing problems for the SDNY-EDNY Clerk's Offices.

The adoption of the above will result in Local Civil Rule 7.1 being renumbered as Local Civil Rule 7.1(a).

Comments to the above are to be submitted, in writing, on or before the close of business, Friday, April 11, 2008 which is the effective date of the amendments to Local Civil Rule 7.1.

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